

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42419 of 2021

Arising Out of PS. Case No.-1 Year-2017 Thana- C.B.I CASE District- Patna

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ARUN KUMAR TIWARI S/O AWADHESH TIWARI RESIDENT OF
VILLAGE-KAB BIGHA, P.S.-BELAGANJ, DISTRICT-GAYA

... .. Petitioner/s

Versus

CENTRAL BUREAU OF INVESTIGATION, THROUGH
SUPERINTENDENT OF POLICE, CBI, PATNA PATNA

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 64583 of 2021

Arising Out of PS. Case No.-1 Year-2017 Thana- C.B.I CASE District- Patna

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RAMADHAR RAM Son of Late Brajnandan Ram Resident of Village -
Gopalpur, P.s.- Naubatpur, P.O.- Gopalpur, Naubatpur, Distt.- Patna.

... .. Petitioner/s

Versus

The State of Bihar through C.B.I., SCB, Patna. Bihar

... .. Opposite Party/s

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Appearance :

(In CRIMINAL MISCELLANEOUS No. 42419 of 2021)

For the Petitioner/s : Mr. Vikramdeo Singh, advocate

Mr. Binoy Kumar Sinha

For the Opposite Party/s : Mr. Avanish Kumar Singh, SC CBI

(In CRIMINAL MISCELLANEOUS No. 64583 of 2021)

For the Petitioner/s : Mr. Rajeev Kumar Verma, Sr. advocate

Mr. Rohan Verma

For the Opposite Party/s : Mr. Sourendra Pandey, SC CBI

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

9 29-08-2022 Since both the bail petitions arise out of the same PS

case, they have been heard together and are being disposed of

by this common order.

Heard learned senior counsel for the petitioners and

the learned counsel for the C.B.I.



The petitioners apprehend their arrest in connection with RC Case No. 1(S)/2017 registered for the offences punishable under Sections 120(B)/193/196/197/198/199/200/201/209/420/467/468/471 of the Indian Penal Code and Section 66 of the I.T. Act. Chargesheet has been submitted under Sections 120(B), r/w 193/419/420/467/468/471 of the Indian Penal Code.

The allegation against the petitioners and other accused persons is that one Machin, Md. Khalid and Md. Mustaque are in custody in connection with Economic Offence Case No. 17/2012 after the chargesheet having been submitted and, subsequently, their bail applications were rejected up to this court.

The accused persons through one of their relatives, namely, Md. Akbar approached Raghuvir Kumar @ Sonu, Advocate Clerk of Danapur for securing their bail. Raghuvir Kumar contacted one Arun Kumar Tiwari (petitioner of Cr. Misc. No. 42419/ 2021) for bail and a deal was struck for Rs. 1.5 Lakhs with him for securing bail of the accused persons. Rs. 1.30 lakhs in installments was given to Arun Kumar Tiwari and Rs. 20,000/- was given to Raghuvir Kumar @ Sonu. Raghuvir Kumar @ Sonu admitted this fact during investigation as well as



in the statement recorded under Section 164 Cr. P.C. before the learned Magistrate. CDR analysis of mobile phones of the all accused persons revealed that they were in contact with one another and had talked at the date of bail i.e., 01.06.2016.

It is further alleged in the chargesheet that the accused was entrusted this work of securing bail for Machin, Md. Khalid and Md. Mustaque by filing a bail application in the High Court, Advocate Clerk Chandradeo Prasad and Nand Kishore Singh @ Nandu filed Cr. Misc. No. 57055/2015 on behalf of the aforesaid three petitioners was signed through the A.O.R. Mr. Raj Nandan Prasad in the High Court. The bail application prepared by the accused persons was made available to Nand Kishore Singh @ Nandu for filing. Nand Kishore Singh @ Nandu gave the same to Advocate Clerk Chandradeo Prasad to get it signed by the same Advocate on Record. Chandradeo Prasad got it signed on 23.11.2015. Affidavit was sworn by one Kalu Ram and he was identified by Late Binod Kumar, Advocate Clerk before the Oath Commissioner. Kalu Ram could not be located and examined during the investigation. Binod Kumar died on 05.06.2019 and his role was limited to identification of Kalu Ram in the affidavit dated 23.11.2015.

Mr. Raj Nandan Prasad, A.O.R. was paid a very petty



amount for signing the bail application. Forged Vakalatnama was filed with the bail application and the Jail Superintendent has denied the signature which is said to have been executed by Machin, Md. Khalid and Md. Mustaque. Mr. Rajanandan Prasad did not argue the case, but the case was entrusted to Mr. Manoj Kumar Pandey, Advocate, who appeared along with the co-accused in the High Court for arguing the matter on behalf of the accused persons in custody. The accused persons were granted bail by this Court considering the period of custody undergone by them.

It is further stated in the chargesheet that the investigation reveals that initially Economic Offence P.S. Case No. 11/2012 was mentioned in the said petition, but later on, pages No. 2 and 5 of the said bail petition were removed from the original petition and replaced with new pages showing the case No. as 17/2012. These pages were substituted just before the case was to be heard in the High Court on 01.06.2016 by Ramdhar Ram (petitioner of Cr. Misc. No.64583/ 2021), Peon of the High Court. A copy of the F.I.R. annexed with the bail petition was in respect of the Economic Offence P.S. Case No. 11/2012 dated 05.10.2012. During investigation, it has come that no such F.I.R. was registered by the E.O.U., Patna against



the aforesaid three accused. Later on, F.I.R. No. 11/2012 was changed to 17/2012 and photocopy of F.I.R. No. 17/12 was used by initially changing F.I.R. No. 11/12 and later on 17/12. Similarly, the case was changed from 11/12 to 17/12 on Fardbeyan on 05.10.2012. Seizuerlist dated 05.10.2012 and impugned order dated 15.10.2012 passed by Additional Sessions Judge, VII, Patna cum Spl. Judge, N.D.P.S. Patna also before hearing. From the aforesaid fact, it is clear that forgery was committed in the bail application to secure bail from this Court. It has also come during investigation that the accused persons, including the petitioners, were in constant touch with each other on phone in bail fraud case in High Court.

The Chargesheet details further materials collected during the investigation against the accused persons including the petitioners.

Cognizance was taken after submission of chargesheet by the Special Judge, C.B.I. and, thereafter, summons were served. The anticipatory bail application of the petitioners were rejected by the A.D.J. XII, Patna.

It has been submitted by learned Senior Advocate appearing on behalf of the petitioners that the material collected during investigation against these petitioners by the C.B.I. is



that they were in constant touch with each other during the course of hearing of the bail petition. It is further submitted by Mr. Verma that it is a case based on documentary evidence, there is no allegation by the C.B.I. that the petitioners during all these years has tried to tamper with the evidence of the case and there is no chance of tampering of evidence of absconding in the matter. He also undertakes that the petitioners will appear in the case as and when required and directed.

On the other hand, learned counsel for the C.B.I. submitted that the petitioners have conspired with other accused persons for obtaining bail of criminals whose bail application was rejected earlier. He further submits that though there is no allegation against the petitioners of tampering with evidence, but nothing prevents them in tampering with the evidence in future.

Considering the aforesaid facts and the materials available on record, it appears that the petitioners are now no more required by the C.B.I. for custodial interrogation. Charge sheet has already been submitted. The allegations against the petitioners are yet to be proved during trial. However, the petitioners undertake to appear in the Trial Court as and when directed.

What weighs heavily in the mind of the Court while



considering these petitions is that the petitioners were never remanded in connection with the present case for custodial interrogation and it seems that now the C.B.I. after chargesheet does not require the petitioners presence except for their appearance in the trial.

In view of the aforesaid facts and circumstances, the prayer for anticipatory bail of the petitioners is allowed.

Accordingly, let the petitioners above named be released on bail, in the event of his arrest or surrender before the P court below within a period of six weeks from today, on furnishing bail bonds of Rs.10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Special Magistrate, C.B.I., Patna/ Exclusive Magistrate, C.B.I.,- III, Patna in connection with R.C. Case No. 01 (S) /2017, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C., subject to further conditions that :-

(i) The petitioners shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the Court and in the event of failure on two consecutive dates without sufficient reasons, their bail bonds shall be liable to be cancelled by the court below.



(ii) If the petitioners tamper with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioners.

(Prabhat Kumar Singh, J)

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